

1 Robert A. McFarlane, No. 172650  
2 S. Mark Varney, No. 121129  
2 **CARROLL, BURDICK & McDONOUGH LLP**  
3 Attorneys at Law  
3 44 Montgomery Street, Suite 400  
4 San Francisco, CA 94104  
4 Telephone: 415.989.5900  
5 Facsimile: 415.989.0932  
5 Email: rmcfarlane@cbmlaw.com  
mvarney@cbmlaw.com

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7 Attorneys for Defendant  
7 BRK BRANDS INC.

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12 UNITED STATES DISTRICT COURT  
13 NORTHERN DISTRICT OF CALIFORNIA  
14 SAN JOSE DIVISION

15 SAN FRANCISCO TECHNOLOGY INC.,  
16

17 PLAINTIFF,

18 V.

19 AERO PRODUCTS INTERNATIONAL  
20 INC., BP LUBRICANTS USA INC., BRK  
21 BRANDS INC., CALICO BRANDS INC.,  
22 COOPER LIGHTING LLC, DAREX LLC,  
23 DEXAS INTERNATIONAL LTD., DYNAGRO  
24 NUTRITION SOLUTIONS, FISKARS  
25 BRANDS INC., GLOBAL CONCEPTS  
26 INC., HOMAX PRODUCTS INC.,  
27 KIMBERLY-CLARK CORPORATION,  
28 KRACO ENTERPRISES LLC, LIXIT  
CORPORATION, MEAD WESTVACO  
CORPORATION, NUTRITION 21 INC.,  
OATEY CO., OPTIMUM TECHNOLOGIES  
INC., NEWELL RUBBERMAID INC.,  
SCHICK MANUFACTURING INC., THE  
SCOTTS COMPANY LLC, STERLING  
INTERNATIONAL INC., VITAMIN  
POWER INCORPORATED,  
WOODSTREAM CORPORATION, 4-D  
DESIGN INC.,

29 DEFENDANTS.  
30

No. 5:10-cv-02994 JF

31 **STIPULATION AND [PROPOSED] ORDER  
32 REGARDING SEVERANCE OF CLAIMS  
33 AGAINST BRK BRANDS, INC.**

34 Judge: Hon. Jeremy Fogel

35 Complaint Filed: July 8, 2010

36 CBM-SFISF487964

37 STIPULATION AND [PROPOSED] ORDER REGARDING SEVERANCE OF CLAIMS AGAINST BRK BRANDS, INC. (NO. 5:10-CV-02994 JF)

1 Plaintiff San Francisco Technology Inc. and Defendant BRK Brands Inc. ("BRK"),  
2 by and through their undersigned counsel, agree and stipulate as follows:

3 WHEREAS San Francisco Technology, Inc. brought the instant action against 25  
4 defendants, including defendant BRK, alleging that the defendants falsely marked their products  
5 with expired patents and seeking recovery pursuant to 35 U.S.C. § 292;

6 WHEREAS this Court has previously been assigned the action *San Francisco*  
7 *Technology, Inc.*, brought against some 20 other defendants, which case was originally styled *San*  
8 *Francisco Technology, Inc. v. The Glad Products Company et al.* Case No. 10-CV-00966 JF (the  
9 "Glad Products Action");

10 WHEREAS this Court ordered each individual defendant named in the Glad Products  
11 Action who had not requested transfer severed into a separate action pursuant to Federal Rule of  
12 Civil Procedure 21, and, further, ordered the Clerk to open new case numbers for each such action  
13 and assign such action to Judge Fogel (*San Francisco Technology, Inc. v. The Glad Products*  
14 *Company et al.* Case No. 10-CV-00966 JF, Order re: Pending Motions, July 19, 2010 (Docket  
15 No. 315)),

16 WHEREAS San Francisco Technology, Inc. and BRK agree that San Francisco  
17 Technology Inc.'s claims against BRK should be severed into a separate action pursuant to  
18 Federal Rule of Civil Procedure 21, that such action should be assigned a new case number, and  
19 that such action should remain assigned to the Honorable Judge Jeremy Fogel;

20 The Parties respectfully request that the Court issue an order providing that

21 (1) San Francisco Technology Inc.'s action against BRK shall be severed from the  
22 claims pending against other parties herein pursuant to Federal Rule of Civil Procedure 21;

23 (2) The Clerk shall open a new case number for an action styled *San Francisco*  
24 *Technology, Inc. v. BRK Brands, Inc.*;

25 (3) Such new case shall be assigned to the undersigned judge, the Honorable Jeremy  
26 Fogel.

27 **IT IS SO STIPULATED.**

1 Dated: September 9, 2010

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4 CARROLL, BURDICK & McDONOUGH LLP

5 By /s/ Robert A. McFarlane  
6 Robert A. McFarlane  
7 Attorneys for Defendant  
8 BRK Brands Inc.

9 Dated: September 9, 2010

10  
11 MOUNT & STOELKER, P.C.

12 By /s/Dan Fingerman  
13 Dan Fingerman  
14 Attorneys for Plaintiff  
15 San Francisco Technology Inc.

16 In accordance with General Order No. 45, Rule X, the above signatory attests that  
17 concurrence in the filing of this document has been obtained from the signatory below.

18 Dated: September 9, 2010

19 CARROLL, BURDICK & McDONOUGH LLP

20 By /s/ Robert A. McFarlane  
21 Robert A. McFarlane  
22 Attorneys for Defendant  
23 BRK Brands Inc.

24 PURSUANT TO STIPULATION, AND GOOD CAUSE APPEARING THEREFOR,  
25 IT IS SO ORDERED

26  
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28 9910

By

The Honorable Jeremy Fogel